

Letter of Findings Numbers: 08-0387, 08-0397
Corporate Income Tax and Individual Income Tax
For the Years 2004, 2005, and 2006

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ISSUE

I. Individual Income Tax – Imposition.

Authority: IC § 6-8.1-5-1.

Taxpayer protests the assessment of individual income tax.

STATEMENT OF FACTS

Taxpayer is the sole shareholder of an S Corporation ("Corporation"). The Department audited Corporation and issued adjustments based on the best information available. As a result of the adjustments to Corporation, Taxpayer was assessed additional individual income tax. Taxpayer protested the adjustments against Corporation and the assessment against himself. Additional facts will be supplied as necessary.

I. Individual Income Tax – Imposition

DISCUSSION

Taxpayer protests the imposition of individual income tax. Under IC § 6-8.1-5-1(c), a proposed assessment of tax is presumed to be correct. The burden of demonstrating that the assessment is incorrect rests with the person against whom the proposed assessment has been issued. Id.

With respect to 2004, Taxpayer protests that he only owned Corporation for the last two months of the year. The Department requested that Taxpayer provide evidence detailing the ownership transfer of Corporation. Taxpayer provided information that substantiated that he purchased the corporation's assets on November 10, 2004. Based on the evidence provided, Taxpayer did not earn the income for the portion of the year that Taxpayer did not own Corporation, or 314 out of 366 days. Taxpayer is denied for the other fifty-two days of the year. Thus, Taxpayer's income from Corporation is 52/366 of Corporation's 2004 annual income.

With respect to 2005 and 2006, Taxpayer has only provided a handwritten "checks disbursed summary" for Corporation's transactions occurring that year. The "checks disbursed summary" does not meet the standard of recordkeeping (receipts, invoices, third-party statements, cash register tapes) that is expected of taxpayers generally. Thus, Taxpayer has not provided sufficient evidence to rebut the presumption that the audit was correct.

FINDING

Taxpayer's protest is denied with respect to 2005 and 2006, and sustained with respect to 2004 except to the extent of 52/366 of Corporation's net income.

Posted: 02/18/2009 by Legislative Services Agency
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